

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Establishing Rules and Policies for the)
Use of Spectrum for Mobile Satellite)
Service in the Upper and Lower L-Band)

IB Docket No. 96-132

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To: The Commission

**OPPOSITION OF INMARSAT Ltd
TO "MOTION TO REFRESH THE RECORD"**

Inmarsat Ltd ("Inmarsat"), by counsel and pursuant to Section 1.45(a) of the Commission's Rules, hereby submits its Opposition to the "Motion to Refresh the Record" ("Motion") filed by Motorola, Inc. ("Motorola") and Iridium LLC ("Iridium") on April 15, 1999 in the above-captioned proceeding.¹ As discussed more fully below, Motorola and Iridium have failed to present any information that would warrant reopening of the record in this proceeding at this time. The relevant facts affecting mobile satellite services ("MSS") in the L-band remain largely unchanged since the Commission issued its Notice of Proposed Rulemaking in this proceeding. The Commission should therefore deny Iridium's request.

Background

The Commission began this proceeding in 1996 when it proposed to assign the first 28 MHz of upper and lower L-band spectrum² coordinated for U.S. systems to

¹ Inmarsat was not served a copy of the Motion and thus was unaware of it until several days after the filing date. Further, as of today's date, the Commission has not yet placed this Motion on public notice. Inmarsat has attempted to submit these comments as expeditiously as possible owing to its interest in this proceeding. In the event the Commission places the Motion on public notice, Inmarsat reserves the right to submit more comprehensive comments in response.

² The upper L-band is generally defined as the bands 1545-1559 MHz and 1646.5-1660.5 MHz. The lower L-band is defined as 1525-1544 MHz and 1626.5-1645.5 MHz.

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American Mobile Satellite Corporation (“AMSC”) which was then the only U.S. MSS system licensed to operate in the upper L-band.³ The Commission noted that

Currently, in the entire L-band, there is 66 MHz of spectrum available for Earth-to-space and space-to-Earth transmissions for U.S. and non-U.S. licensed MSS systems. At the present time, Inmarsat and four administrations (Canada, Mexico, the Russian Federation and the United States) are coordinating spectrum for a variety of MSS systems in the vicinity of North America. The U.S. has been at a disadvantage during this coordination because it began coordinating the upper L-band and only later began focusing on the lower L-band while Inmarsat and the other administrations have been coordinating spectrum throughout the entire L-band....In the course of international coordination, it has become clear that the U.S. will not be able to secure sufficient spectrum in the upper L-band for its existing licensee, AMSC. NPRM at ¶¶8-9.

Numerous parties filed comments and reply comments in response to the NPRM.

Most notably, Comsat Corporation (in its capacity at that time as Inmarsat signatory) filed pleadings which provided detailed information regarding the international coordination issues and efforts affecting the L-band referenced by the Commission.⁴

Those comments underscored and expanded on two crucial points recognized by the Commission in the NPRM.

- *First*, the L-band is heavily crowded, both over the United States and internationally.
- *Second*, the existing coordination process is working well to ensure equitable sharing of the limited available spectrum resource. This process of annually reviewed spectrum sharing arrangements was designed to allocate capacity for competitive commercial use and to ensure sufficient additional spectrum for

³ See Notice of Proposed Rulemaking, IB Docket No. 96-132, FCC 96-259 (rel. June 18, 1996)(“NPRM”)

⁴ See Comments of Comsat Corporation, IB Docket No. 96-132 (Sept. 17, 1996); Reply of Comsat Corporation, IB Docket No. 96-132 (Oct. 7, 1996).

global maritime distress and safety system (“GMDSS”) traffic based on short-term predictions of future need.

These important facts have not changed. In fact, this coordination mechanism, which was made possible in part by the Commission’s own efforts, has since been extended to other parts of the world covered by ITU Regions 1& 3 and is working satisfactorily to accommodate an even larger number of GSO/MSS satellites in that part of the orbit. Therefore, the Commission need not seek additional comment at this time.

Discussion

Iridium and Motorola contend that the record in this proceeding has become stale due to fundamental changes in the satellite market, especially with respect to MSS services in the lower L-band. Specifically, they cite to such events as the privatization of Inmarsat,⁵ the commencement of commercial operations by Iridium,⁶ the potential entry of other MSS competitors,⁷ the availability of new MSS spectrum in the 2 GHz band,⁸ the failure of AMSC to meet milestones and other requirements mandated by the Commission⁹ and the alleged increase in requests by non-U.S. companies for access to U.S. spectrum following on the conclusion of the World Trade Organization (“WTO”) Agreement.¹⁰

Nothing in the Motion speaks to any significant new developments regarding the status of international L-band coordination, which remains fundamentally unchanged in the years since comments and replies were filed in this proceeding. Because this coordination process remains at the heart of any final Commission decision regarding

⁵ Motion at 4.

⁶ Id.

⁷ Motion at 6.

⁸ Motion at 5.

domestic L-band licensing rules, no good cause exists for reopening the record at this time.

Briefly, most of the changes cited by Motorola and Iridium either are marginally relevant to the issues at hand or have been addressed by the Commission already either in this proceeding or in others. First, as noted, Inmarsat became a private U.K. company as of April 15, 1999. This simply means that Inmarsat no longer participates in the coordination process on its own behalf as an Intergovernmental Satellite Organization, but instead will be represented in the future by the U.K. government. Inmarsat's change in status in no way affects either its spectrum capacity needs (which consist basically of space segment necessary to maintain four prime operational Inmarsat-3 satellites) or the international process for coordinating such needs.¹¹ Further, Inmarsat remains responsible for ensuring sufficient L-band spectrum to meet worldwide GMDSS and AMS(R)S needs.

Second, Motorola and Iridium fail to provide any compelling reason why the availability of new spectrum for MSS operations at 2 GHz, which is the preferred allocation for IMT-2000 applications, should in any way affect the L-band proceeding. If anything, attempts to allocate new spectrum bands for MSS use merely serve to underscore the congested state of the L-band, a fact already well known to the Commission. Furthermore, the potential for 2 GHz MSS already has been noted by parties to this proceeding.¹²

⁹ Motion at 7.

¹⁰ Motion at 6.

¹¹ It should be noted that Inmarsat's current spectrum requirements are the result of actual customer usage demands.

¹² See, e.g., Reply Comments of Comsat at 3.

Third, the actual or potential entrance by new MSS service providers now or in the future (whether it be Iridium or any other foreign or domestic service provider) does not warrant reopening of the record. The Commission was well aware of this possibility when it issued its L-Band NPRM and chose not to accept applications for additional systems at that time due to the aforementioned international crowding in the L-band and its desire to preserve as much spectrum as possible for AMSC. If anything, the situation with respect to international use of this band has become even more acute since the Commission made that decision.¹³

Fourth, as indicated before, the usage of the L-band allocations in Regions 1 & 3, following a multilateral coordination process similar to the one for the North American region, has been aligned with the assignments made in the Mexico City Agreement to which the Commission was a signatory. It is important to realize that the spectrum used by North American GSO/MSS systems over North America is being fully reused by other GSO/MSS systems in ITU Regions 1 & 3. This also would render any reconsideration of the lower L-band acutely problematic.

Finally, Part IV of the Motion appears simply to be an attempt by Iridium to block access to the U.S. market by other domestic and foreign competitors (including, potentially, Inmarsat in its new capacity as a private company). However, as noted herein, no justification exists for reopening the record in this proceeding and thereby incurring further regulatory delay.


¹³ Projections regarding AMSC's traffic shortfall do not alter this equation. Nor do reports of similar results experienced by Iridium. See "Glitches Surface as Iridium Phones Go To War," The Wall Street Journal, Vol. CCXXXIII, No. 8, April 27, 1999 at B1. The coordination process currently in place is

Conclusion

In short, contrary to the claims made by Iridium and Motorola, no recent developments in MSS warrant reopening of the record in this proceeding. Rather, the fundamental facts of existing heavy L-band spectrum use and satisfactory international coordination regime to manage that use are even more dominant now than they were two and half years ago. For this reason, the Commission should deny the Motion of Motorola and Iridium to refresh the record in this proceeding.

Respectfully submitted,

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April 28, 1999

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designed to ensure that spectrum not employed by one operator will be reallocated to others who have immediate need for it. As noted, the L-band is already saturated with operators.

CERTIFICATE OF SERVICE

I, Kelly Cameron, hereby certify that on this 28th day of April, 1999, a copy of the foregoing Opposition of Inmarsat Ltd., was mailed via first-class mail, postage prepaid, to the below-listed persons.

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